IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.842 OF 2004
IN
NOTICE OF MOTION NO.3481 OF 2004
IN
S.C.SUIT NO.4130 OF 2004

M/s.Ajit Developers Pvt. Ltd)..Appellants

Versus

Kayum Khan)..Respondent

WITH
APPEAL FROM ORDER NO.870 OF 2004
IN
NOTICE OF MOTION NO.3481 OF 2004
IN
S.C.SUIT NO.4130 OF 2004

Kayum Khan)..Appellant

Versus

M/s.Ajit Developers Pvt. Ltd.)..Respondents

Mr.A.Y.Sakhare with Mr.Rajan Kakkara for the Appellants in A.O.No.842/04 and for the Respondent in A.O.No.870 of 2004.

Mr.V.A.Thorat with Mr.N.H.Shukla for the Respondent in A.O.No.842/04 and for Appellant in A.O.No.870/04.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 4TH OCTOBER 2004

P.C.:

. Both these Appeals From Orders are being heard together. The Appellants-original Plaintiffs have filed Appeal From Order No.842 of 2004 while the Respondent-original Defendant has filed Appeal From Order No.870 of 2004. The short facts giving rise to the

present Appeals are that there was an agreement of sale dated 19th January 1995 under which the vendors agreed to sell the suit property on certain terms and conditions after payments were made as stipulated in the agreement. There is a dispute as to whether the payments have been made. It appears that the Defendant apprehends that the Plaintiffs will start construction activity in the suit premises without obtaining a Letter of Intent from the Slum Redevelopment Committee or the requisite IOD and other permissions before undertaking the construction work. The impugned order which is an ad-interim order permits the Plaintiffs to carry out the construction activity while restraining the Defendant from obstructing the development work and the construction work being carried out by the Plaintiffs in the suit premises. The Defendant has also been restrained from disposing of the tenancy rights or inducting new persons and from creating any third party rights in the suit premises. The impugned order also permits the Defendant to submit its application before the Slum Rehabilitation authority in order to redevelop the property.

2. It is urged on behalf of the Defendant that this would create a situation where the Plaintiffs would go ahead with the construction activity without having the right to do so, without being issued a Letter of Intent by the Slum Redevelopment Committee and in breach of the

proceedings before the Slum Rehabilitation authority.

3. Both parties are agreed that the Motion has been fixed for hearing on 8th October 2004. Till then the parties would maintain status quo as of today; thereby the Plaintiffs will not physically undertake any construction activity on the suit premises and the Defendant is restrained from creating any third party rights or inducting any persons or creating any new tenancies in respect of the suit premises. However, both the Plaintiffs and the Defendant may pursue their applications before the Slum Rehabilitation authority during the pendency of the Motion. However, no physical construction activity will take place till the Motion is heard finally and disposed of.

4. The Appellant in Appeal From Order No.870 of 2004 will file reply within a week from today. The Trial Court to hear and dispose of the Motion within four weeks from the filing of the reply by the Appellant.

5. Both the Appeals From Orders disposed of.

6. In view of the disposal of the Appeals From Orders, nothing survives in Civil Application Nos.1179 of 2004 and 1180 of 2004 and both the Civil Applications are disposed of accordingly.

7. Parties may be provided an authenticated copy of this order.